

TESTIMONY OF
THOMAS J. WEICHEL
ALCONA COUNTY PROSECUTING ATTORNEY AND MEMBER OF THE
MICHIGAN COMMITTEE ON JUVENILE JUSTICE

BEFORE
THE MICHIGAN HOUSE OF REPRESENTATIVES
LAW AND JUSTICE COMMITTEE
IN SUPPORT OF RAISE THE AGE

SEPTEMBER 25, 2018
LANSING, MICHIGAN

Introduction

Chairman Kesto and Committee Members, thank you for the opportunity to appear before you today as a citizen, as an elected prosecutor of 26 years, and as a member of the Michigan Committee on Juvenile Justice (MCJJ).

The higher age threshold for inclusion in juvenile court makes sense. There has been a national trend to reevaluate crimes committed by young people and youth incarceration generally. That trend is a result of findings in the field of cognitive science and an associated recognition of the need for a more rehabilitative system that treats children – who are developmentally different from adults. However, Michigan has neglected to recalibrate definitions of true adulthood to reflect these findings.

A new strategy is needed in Michigan, one that focuses on addressing root causes of delinquency by targeting participants' individual needs, with the goal of turning participants into productive citizens and helping them lead a better life.

Research

As many of you already know, much of the research underlying this national movement to uniformly set the age of juvenile court jurisdiction at 18 was conducted by the John D. and

Catherine T. MacArthur Foundation's Research Network on Adolescent Development and Juvenile Justice, founded in 1997....www.mac-adoldev-juvjustice.org.

The Network has conducted extensive research on youths' competency to stand trial and the implications for culpability from adolescent's developmental differences from adults. In general, the research demonstrates that **"adolescent offenders have diminished competence to participate in proceedings against them, and their limited capacity also makes them less culpable than older offenders"**.

Currently, Prosecutors do not have any discretion on how 17 year old children are charged. It is imperative that this long standing law change. The discretion to charge a 17 year old should be placed in the hands of the county Prosecuting Attorney. Leave the choice to those on the front line as to who should be petitioned in to the Family Division and which 17 year olds should be charged as an adult.

Funding

I believe like many, the question isn't whether Michigan should raise the age, but how we implement raising the age. Funding is an absolute necessity and is a preface to my support, as local units of government cannot and should not be required to absorb the estimated 16 to 34 million dollar cost estimate placed on it by HORNBY ZELLER ASSOCIATES, INC. (HZA) in their study dated March 14, 2018... (See council.legislature.mi.gov/Content/Files/.../MIRaiseTheAge_FinalReport_03.14.2018.pdf.) ***"Understand that in rural Michigan our ability to provide quality services to youth including programming, mental health services, detention and/or residential facilities is extremely limited"***.

While there are potential long-term gains due to lessened rates of recidivism, there is no doubt there will be significant immediate costs for both the state and counties. Currently, juvenile justice is funded through the Child Care Fund, with a 50/50 split of cost between the state and counties. While one of the bills offers a potential funding mechanism to address the substantial increase of costs by adding 17-year olds to the juvenile justice system, it is not a mechanism that is supported by all of the key interest groups working on this issue. Without a mechanism in place, the state faces a clear violation of the Headlee Amendment and a potential budgetary crisis for counties, large and small.

Programming

Educational programs and vocational training are critical for 17-year-olds preparing to enter adulthood and become independent and responsible community members. Older youths are also typically prone to far more complex mental health issue, educational challenges, and often have housing issues due to being estranged from their parents. Juvenile courts have seen significant increases in the need for intensive mental health treatment, substance abuse treatment,

psychotropic medication management, and educational programming—all of which are very costly to the system. Without ensuring funding now for these important treatment programs and staff, we cannot promise our youths the services they deserve.

Capacity

Contrary to the Criminal Justice Policy Commission published report by HZA, the current system is already pressed for available detention and treatment beds. The HZA study suggests there are secure and non-secure beds available to accommodate the projected need. This simply cannot be assumed as true, as the treatment of youths locally has been proven to produce more effective outcomes and has created a conversion of open detention beds to short-term treatment beds. This question was not asked in the HZA survey, nor is it necessarily quantifiable because of the rapidly changing needs of our youths and lack of resources to track data. We do know, from anecdotal findings, that courts have found it difficult to find open beds within a two-hour drive from a youth's location. This presents concerns for courts and counties, but also for the youths and their families involved in these situations.

Conclusion

The time and need to raise the age is now and frankly is the right action to take for the children of Michigan. I know this is a daunting endeavor, however together we can make a difference.

Respectfully submitted,

Thomas Jay Weichel